opinion to the Collector, who shall pass such order thereon as he may deem fit.

[a—a] These words were substituted for the original word "Collector" by Bom. IV of 1913, s. 76 (*a*).

[b] Words repealed by Bom. IV of 1913, s. 76 (*b*), are omitted.

[c] "An" was substituted for "and" by Act XVI of 1895.

[d] This proviso was added by Bom. IV of 1913, s. 76 (*c*).

J. I. **Commissioners have power to revise Kabulayats under sections 60 or 62.** Orders for the sale of unoccupied land and permission to occupy that land under sections 62 and 60 of Act V of 1879 come within the scope of Section 211 and which the Commissioner has jurisdiction to call for and revise and pass such orders thereon as he deems fit and that there is no cause of action against Government on account of that officer having exercised his lawful powers under that section.

Parapa Virupakshapa Hundekar
v.
The Secretary of State for India in Council.

P. J. for 1891, p. 230.

Rules as to decisions or orders expressly made final.

212. Wherever in this Act it is declared that a decision or order shall be final, such expression shall be deemed to mean that no appeal lies from such decision or order.

The Governor in Council alone shall be competent to modify, annul, or reverse any such decision or order under the provisions of the last preceding section.

CHAPTER XIV.

MISCELLANEOUS.

Maps and land records open to inspection

213. Subject to such rules and the payment of such fees as the Governor in Council may from time to time prescribe in this behalf,

No. 73

Section 211—

Insert as J. 2 :—

"No period of limitation is prescribed for the exercise of revisional powers. (Dattatraya vs. the Secretary of State, 31 Bom. L.R. 1235.)"

(G.R. No. 6802/28, dated 15-5-1931.)

all maps and [a] and records [a] shall be open to the inspection of the public at reasonable hours, and certified extracts from [b] the same [b] or certified copies thereof shall be given to all persons applying for the same. Extracts and copies shall be given.

[a—a] These words were substituted for the original words "survey records and all village accounts and land registers" by Bom. IV of 1913, s. 77.

[b—b] These words were substituted for the original words "such maps, registers and accounts" by Bom. IV of 1913, s. 77.

G. I. By "survey records" is meant completed documents prepared under Section 108 and referred to in Sections 3 (6), 95 and 119, and not the field books (such as, measurement and classification books) or other official memoranda the *results* of which are recorded. The section gives a right of inspection only of the completed documents, and provides that certified extracts or copies should be given only in the case of "maps," registers and (village) accounts. From the position of the word "registers" after maps and before accounts it seems clear that it is intended to relate back to "survey records," and that the expression "survey records," used in this Section therefore means only such records as are prepared in the form of registers, based on information supplied by preliminary papers (such as measurement and classification field books, Bagait Taktas, etc.). The inspection, extracts or copies of such preliminary records cannot therefore be claimed as a matter of right. (G. R. No. 5138, dated 14th July 1893.)

[a] **214.** (*1*) The Governor in Council may, by notification published in the *Bombay Government Gazette*, make rules not inconsistent with the provisions of this Act to carry out the purposes and objects thereof and for the guidance of all persons in matters connected with the Rules.

enforcement of this Act or in cases not expressly provided for therein.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may be made—

(a) regulating the apppointment of revenue officers and the exercise by them of their powers and duties ;

(b) regulating the assessment of land to the land revenue and the alteration and revision of such assessment and the recovery of land revenue ;

(c) prescribing the notice to be given in the case of enquiries and orders under section 37 ;

(d) prescribing the purposes for which unalienated land liable to the payment of land revenue may or may not be used, and regulating the grant of permission to use agricultural land for non-agricultural purposes ;

(e) regulating the disposal of land and other property vesting in Government ;

(f) regulating the disposal of forfeited land ;

(g) prescribing the terms and conditions on which, and the periods for which, unoccupied unalienated land may be granted ;

(h) fixing the maximum amount of fine leviable under section 61 ;

(i) regulating the conduct of surveys and settlements of land revenue, and prescribing the notice to be given under section

103 before the introduction of a settlement;

(*j*) regulating the division of survey numbers into sub-divisions and the fixing of the assessment of sub-divisions under section 117A;

(*k*) regulating the construction, laying out, maintenance and repair of boundary marks;

(*l*) regulating the compilation, maintenance and revision of the record of rights and the registers of mutations, disputed cases and tenancies, and prescribing the forms in which they are to be compiled and the officers by whom the said records and registers are to be tested and revised;

(*m*) regulating the exercise by village accountants and revenue officers of the powers of a survey officer and the assessment of costs and expenses under section 135G;

(*n*) prescribing the mode, form and manner in which appeals under chapter XIII shall be drawn up and presented;

(*o*) prescribing the records, registers, accounts, maps and plans to be maintained for the purposes of this Act and the manner and forms in which they shall be prepared and maintained.

(*3*) The power to make rules under this section shall be subject to the condition of previous publication.

[a] This section was substituted for the original section by Bom. IV of 1913, s. 78.

Penalty for breach of rules.

[a]**215.** It shall be lawful for the Governor in Council, in making any rule under section 214, to prescribe that any person committing a breach of the same shall on conviction by a Magistrate be punished with imprisonment for a term not exceeding one month or with fine not exceeding five hundred rupees, or with both, in addition to any other consequences that would ensue from such breach.

[a] This section was substituted for the original section by Bom. IV of 1913, s. 78.

Chapters VIII to X how far applicable to alienated villages.

[a]**216.** Save as is otherwise provided in section 111 and hereinafter in this section, the provisions of Chapters VIII to X [b] shall not be applied to any alienated village except for the purposes of fixing the boundaries of any such village, and of determining any disputes relating thereto. But the provisions of the said chapter shall be applicable to

(*a*) all unalienated lands situated within the limits of an alienated village,

(*b*) villages of which a definite share is alienated, but of which the remaining share is unalienated,

(*c*) alienated villages the holders of which are entitled to a certain amount of the revenue, but of which the excess, if any above such amount, belongs to Government.

But it shall be lawful for the [c] Commissioner, on an application in writing being made by the holder of any such village to that effect, to authorize the extension of all or any of the

No. 74

Section 216 —

For section 216 *substitute* the following :—

" 216. (*1*) The provisions of Chapters VIII to X shall be applicable to—

(*a*) all unalienated lands situated within the limits of alienated village ;

(*b*) unalienated shares of villages of which a definite share defined by metes and bounds is alienated ;

(*c*) alienated villages the holders of which are entitled to a certain amount of the revenue, but of which the excess above such amount belongs to Government.

(*2*) Save as is otherwise provided in section 111 and in this section, no provision of the said Chapters shall be applied to any other alienated village except for the purposes of fixing its boundaries and of determining any disputes relating thereto unless the extension of the provision is authorised by the Commissioner acting on the written application of the sole holder, or, if there be more than one holder, of the holder or holders representing in the aggregate not less than one-half of the total interests in the village in respect of its alienated revenue. If any share of the village is unalienated the prescribed proportion of one-half shall be reckoned as if the village were wholly alienated, Government being considered as the holder in respect of the unalienated share.

(*3*) In any case in which action under sub-section (*2*) is taken lawfully by the Commissioner on the application of some only of the holders of the village, any covenant or agreement relative to the extension of the said Chapters or incidental thereto, entered into by such holders shall also be binding on the remaining holders of the village in respect of their shares in the revenue of the village as if such covenant or agreement had been entered into by them.

(*4*) All survey settlements heretofore introduced in alienated villages shall be valid as if they had been introduced in accordance with the provisions of this section."

(Bombay Act XV of 1929.)

Delete foot-notes (*a*), (*b*) and (*c*) below the section at page 539 of the Code.

(Bombay Act XV of 1929.)

provisions of the said chapters to any such village.

[a] As to the local repeal of sections 216 and 217, see para 5 footnote [a] on p. 1, *supra*.

[b] Words repealed by Bom. III of 1886 are omitted.

[c] This word was substituted for the original words "Governor in Council" by Bom. IV of 1913, s. 79.

Holders of land in alienated villages.

[a] **217.** When a survey settlement has been introduced under the provisions of the last section or of any law for the time being in force, into an alienated village, the holders of all lands to which such settlement extends shall have the same rights and be affected by the same responsibilities in respect of the lands in their occupation as [b] holders of land [b] in unalienated villages have, or are affected by, under the provisions of this Act, and all the provisions of this Act relating to [b] holders of land in unalienated villages [b] [c] shall be applicable, so far as may be, to them.

[a] Vide [a] Under section 216.

[b—b] These words were substituted for the original word "occupants" by Bom. IV of 1913, s. 80 (*a*).

[c] Words repealed by Bom. IV of 1913, s. 80 (*b*), are omitted

SUMMARY (sections 216 and 217)

Sections 216 and 217	(1) meaning of section 216	J	1
	(2) should be read with		
	(a) orders under sections 74 and 76	N	1
	(b) sections 131 to 137 of the Alienation manual...	N	3

Survey, Inam village
(1) Agreement to be passed by Inamdar ... G 12, 24, 25, 28
(2) application for—by ...
(a) court of wards ... G 29
(b) Inamdars G 11, 14, 15, J 3
(c) sharers' consent when necessary ... J 2, G 21
(d) ditto when not necessary ... ... G 26, J 3
(3) cost of ... ... G 2, 3, 5
(4) effect of—
(a) before 21-1-65 ... G 27, 30
(b) between 21-1-65 and 17-7-79 ... ... G 9, 27, 30
(c) on or after 17-7-79 G 13, 19, 23, 31 J 5
(5) increased rates ... ... G 16
(6) kadim and khalsa lands N 4, 5, 6
(7) Mamul rates when to be reverted to ... ... G 30
(8) proposals for—to be submitted to Government G 6, 7, 32
(9) questions and answers for easy understanding ... N 2
(10) rights of occupants *see* 'effect of' at (4) above.
(11) rough—for summary settlement ... ... G 20
(12) rules, relating to ... ... G 1
(13) Sharakati village ... G 17
Survey—Native States ... ... G 4, 18, 22

N. (*1*). See orders printed under Sections 74 and 76.

N. (*2*) The following questions and answers will be useful in disposing of an application for the introduction of survey in an inam village.

(a) Is the Inam village not a sharkati one? (Sec. 216 L.R.C.) and G. R. No. 1243, dated the 26th February 1887.	No.
(b) Has the Inamdar made an application on plain paper to the address of the Commissioner through the Collector, for the introduction of Chapters VIII and IX into the village?	Yes.
(c) Whether the consent of registered subsharers only has been obtained? (G. R. No. 664, dated 22nd January 1907).	Yes.
(d) Whether the Inamdar is willing to bear costs in case the village is held on political tenure? (G. R. No. 373, dated 21st January 1875).	Yes.
(e) Whether the Inamdar has passed an agreement on an 8 anna stamped paper in the form of appendix 27?	Yes.

ADDITIONAL INFORMATION.

(i) Inamdar's consent is not necessary in a sharkati village.

(ii) If the original survey was introduced after the L. R. Code, no fresh application is necessary but the Settlement Commissioner is written to for the survey. (G. R. No. 12988, dated 21st December 1908).

N. 3. Vide sections 131 to 137 of my Alienation Manual for further information about survey in an inam village.

N. 4. **Kadim inam and Khalsa lands in an unsurveyed inam village.**

The question is whether an original or revision settlement of Government villages in a taluka can be extended to

(a) kadim inam lands
and
(b) khalsa lands.

As regards (a) Chapters VIII & IX of the L. R. Code do not apply to kadim inam lands situated in an unsurveyed inam village.

As regards (b) khalsa lands in an unsurveyed inam village are not mentioned in the notice about original or revision survey settlement of Government villages in a taluka and therefore the survey of these khalsa lands is not made. Moreover it is very inconvenient to have a separate Akarband and a separate map of such khalsa lands only.

It, therefore, appears that until an inamdar applies for the introduction of survey settlement in his inam village under s. 216 of the L. R. Code the lands in (a) and (b) are left unsurveyed.

N. 5. It may be mentioned here that survey officers are empowered to fix an assessment on kadim Jat Inam and Devasthan lands only for the purpose of calculating quit-rent under Bombay Acts II and VII of 1863. But Chapters VIII & IX of the L. R. C. do not apply to any such assessment on Jat Inam and Devasthan lands.

N. 6. See G. R. No. 6392, dated 10th June 1918, under section 95.

G. 1. **Rules relating to the Survey of alienated villages :—**

I. The boundaries of all alienated villages to be surveyed at the expense of Government.

II. The lands of alienated villages held on hereditary tenure, of which the alienee makes the annual settlement, not to be subjected to the usual revenue survey operations, excepting at the request of the alienee, and his expressing his intention to adopt the rates fixed by the Survey Department and sanctioned by Government.

III. In the event of the alienee fulfilling his intention the expense of the operations

to be borne by Government, in the event of his not doing so, by the alienee.

IV. Villages held on service tenure by hereditary officers to be subjected to the revenue survey operations, but the holders of such villages need not be constrained to introduce the survey rates.

V. The lands of villages which have been declared already liable to assessment on account of Government (Khalsa) but the levy of land revenue in which has been deferred as an indulgence during the life of present incumbent, are to be surveyed and classed at the same time as the lands of the Khalsa villages in the District, but the new rates are not to be imposed against the will of the alienees until their decease. The occupants are, however, to be answerable for the maintenance of the field-boundary marks, (G. R. No. 1223 dated 10th February 1851, No. 3479, dated 29th December 1855, and No. 3613, dated 28th September 1868).

G. 2. **Cost of survey in Inam villages** :—Inamdars who desire it may be allowed to pay the survey expenses in two equal instalments. (G. R. No. 543, dated 12th February 1852).

G. 3. Inamdars who accept the summary settlement should, as regards payment of the expenses of the survey of their villages, be treated in all respects as Judi Inamdars, to whom, as they invariably make the annual settlement of their villages themselves, the provisions of rules 2 and 3 of those relating to the Survey of Inam villages prescribed in paragraph 3 of Government letter No. 1223, dated 10th February 1851, would apply. (G. R. No. 543, dated 12th February 1862).

G. 4. No. Survey should be commenced in any Native State without the special sanction of Gov-

ernment, unless the State undertakes to defray the entire cost. (G. R. No. 2579, dated 6th July 1868).

G. 5. It was not the intention of Government to rescind the rules of the 13th March 1851, whereby the cost of surveying alienated villages is undertaken by Government on the condition that the alienee accepts and adheres to the terms of the settlement. Government will defray the expenses of revision operations in cases where the rules and rates have been adhered to and where a guarantee to this effect is given for the future.

As regards Jaghirs or Estates held on political tenure, Government can no longer consent to bear the cost. (G. R. No. 373, dated 21st January 1875).

G. 6. In future, proposals for the introduction of the survey assessment in Inam villages should always be submitted for the sanction of Government either specially or with those for the remainder of the Taluka in which they may be comprised. (G. R. No. 3504, dated 15th June 1876.)

G. 7. It is the wish of Government that full details be given when proposals for assessing alienated villages are submitted. (G. R. No. 7390, dated 15th December 1876.)

G. 8. The suggestion of the Survey Commissioner that the special report for Inam villages in Talukas already settled, to be made under G. R. No. 3504, dated 15th June 1876, may be dispensed with, and that rates sanctioned for adjacent Government villages previously settled may be held applicable to Inam villages coming under settlement at any time after the settlements of the Taluka is approved. (G. R. No. 5921, dated 16th November 1878.)

NOTE—This is superseded by G. 32 below.

G. 9. **Extension of the provisions of the Code to Inam villges settled under Act I. of 1865.**—Government concur in the views expressed by the Commissioner, C. D., and the Legal Remembrancer

that Section 217 of the Code applies at once to alienated lands which have been settled by the Survey Department under Act I of 1865, and that no application from the alienee under Section 216 is requisite. The application by the Inamdar contemplated by the last paragraph of Section 216 is required only for future extension of the survey to an Inam village. (G. R. No. 6709, dated 16th December 1879.)

G. 10. **Separate sanction to survey rates in Inam villages unnecessary.**—The general sanction granted by G. R. No. 5921, dated 16th November 1878, in respect to Inam villages, should be deemed to be the sanction required by Section 102 and 103 of the Land Revenue Code, 1879. (G. R. No. 6386, dated 6th December 1880.)

NOTE.—This is superseded by G. 32 below.

G. 11. Section 2 of the Code provides that all orders issued and notifications published under any of the enactments repealed by the Code (including Bombay Act I. of 1865) shall be deemed to have been issued and published under the Code. Section 49 of Bombay Act I, of 1865 provided that the Governor in Council had power to extend by notification in the *Government Gazette* all or any of the provisions of the Act to any alienated village on application made in writting by the holder thereof. It seems quite clear from this that existing surveys which have been thus notified or authorized by the Governor in Council are in force just as if they had been notified or authorized under the Code. Yet from the Section 216 of the Code it would seem that the purposeless formality of a written application must be complied with by an Inamdar before Section 112 can be extended to his village. (G. R. No. 6925, dated 19th November 1881.)

G. 12. **Inamdars to pass agreements to pay remuneration to village officers.**—Before the survey rates are introduced in an alienated village an agreement† on a stamped paper of the value of

8 annas should be taken from the alienee binding himself and his successors to pay the village officers who are not paid by Government according to the scale in force in Government villages. (G. R. No. 6401, dated 6th December 1880, and No. 7322, dated 3rd December 1881 and No. 7229, dated 23rd July 1907).

As to form of agreement, see Appendix 27.

G. 13. **Rights of occupants in Inam villages surveyed and settled before the passing of the Code.**—Section 217 was inserted in the Code for the express purpose of giving the rayats in alienated villages to which a survey settlement might be extended, the same occupancy rights which are enjoyed by holders of land in unalienated villages into which a survey settlement has been introduced. But this section cannot, of course, be construed retrospectively. (G. R. No. 3045, dated 14th April 1884.)

G. 14. **Inamdar's‡ consent necessary for surveying his village.**—If the survey operations are conducted in an alienated village with the Inamdar's consent merely they will have no legal value, and the officers conducting them will not be able to exercise any legal authority in connection with them, unless the appropriate provisions of Chapter VIII. of the Code have, in the first instance, been extended to the village upon the Inamdar's written application under Section 216. No survey operations will therefore be commenced in an alienated village until action has been taken by the Inamdar and the Commissioner under the last clause of Section 216. (G. R. No. 6225, dated 2nd August 1884.)

‡ *Vide* G. R. No. 1388, dated 8th March 1881, printed under Section 88.

G. 15. **Chapters to be extended to Inam villages.**—In the cases in which application has been made for the extension of Chapters VIII to X,

No. 75

Sections 216-17—

Delete G. 13—

Add the following to paragraph 1 of G. 31 :—

"As the amendment does not say that it should apply only to villages settled after 1913, it does not save any rights acquired prior to 1913. In other words the amendment has retrospective effect."

(G.R. No. 7358/24, dated 26-7-1927.)

Chapters VIII and IX should be extended. When no chapters are mentioned in the application, it should be returned with an intimation that the extension of the provisions of Chapters VIII and IX should be applied for. (G. R. No. 9819, dated 12th December 1884.)

G. 16. **Fixing of survey rates for Inam Villages.** —Under Section 217 of the Code an Inamdar is bound to levy only the Survey rates introduced into his village by the Survey Department whatever they may be. It may be the case that the effect of insisting that Inamdars should adhere to the ordinary survey rates would be to deter them from applying for the extension of the survey settlement to their villages under Section 216 of the Code, but His Excellency in Council does not consider this to be a sufficient reason for the adoption in the case of Inam villages of a principle different from that followed in the case of Government villages. The Survey Department should, in the case of Inam villages, determine what are the survey rates as fixed according to general rules to be levied, but should not increase those rates without the special sanction of Government under Section 102 of the Land Revenue Code. When the maximum dry-crop and garden rates to be imposed in any alienated village are determined according to the usual method of the Survey Department, Government can, if they think proper, sanction an addition to them in any particular case, but Survey Department should not introduce rates which produce a revenue equal to the Inamdar's demand (if such demand is in excess of the survey assessment), without fully explaining the grounds for the adoption of such rates and without obtaining the sanction of Government to their introduction. (G. R. No. 3436, dated 12th May 1886.)

G. 17. **Inamdar's consent not necessary in the case of a Sharakati village.**—Where a Survey

Settlement was introduced into a village of which half is held in Inam without the consent of the Inamdar, it was decided that the survey was quite lawful, and that the Inamdar was bound by the assessment placed by the Survey Department on his holding. (G. R. No. 1243, dated 26th February 1887.)

G. 18. **Native States.**—It is the desire of Government that no pressure should be put on Native Chiefs to adopt British Survey rates, but every encouragement should be given to them to adopt the methods of classification and survey followed in British territory. The important matter in the case of Native States is not so much low rates as equality of rating. For higher rates than those prevailing in British territory, Government must not assume any responsibility and this should be made clear in cases where the technical operations are carried out by British Officers. (G. R. No. 4280, dated 9th July 1887.)

G. 19. **Effect of extension of Chapters VIII and IX :**—When the provisions of Chapters VIII and IX are extended to an Inam village by notification, the Inamdar is precluded from levying more than the rates fixed by the Survey Department. (G. R. No. 623, dated 28th January 1888).

G. 20. **Inamdar's consent not necessary for a rough survey for the purposes of summary settlement.**—The question whether the estate of Inamdars who have not voluntarily applied for a survey can be roughly surveyed for the purpose of fixing the Judi has been disposed of by the following opinion of the Remembrancer of Legal Affairs concurred in by Government :—

"2. I am of opinion that Section 216 of the Land Revenue Code does not in any way affect the provisions of Bombay II. of 1863 or Bombay VII. of 1863.

"3. The original draft of the Land Revenue Code incorporated the provisions of these two Acts

(Bombay II. and VII. of 1863), which it was then proposed to repeal in Schedule A appended to that bill.

"4. Chapter VII. of the original draft corresponded almost *verbatim* with these Acts and Section 156 of the original draft, which corresponded with Section 216 of the Land Revenue Code provided, as Section 49 of Bombay I. of 1865 provided, that the procedure applicable to unalienated lands should not apply except on the application of the holder to alienated villages or estates.

"5. It therefore appears that Section 216 was not intended to interfere with the provisions of Bombay II. and VII. of 1863, as a section to the same effect as Section 216, was incorporated in an Act retaining practically the same provision as Bombay II. and VII of 1863.

"6. Although Chapters VIII. to X of the Land Revenue Code cannot apply to wholly alienated villages, except subject to the provisions in Section 216, the provisions of Section 2, rule 1, of Bombay II. of 1863 and Section 6, rule 1, of Bombay VII. of 1863, are unaffected.

"7. Both the last mentioned sections provide for three classes of cases—

(*a*) those in which the assessment had already been fixed by the Survey;

(*b*) those in which it was agreed on between the Collector and holder;

(*c*) All other cases.

"8. In respect of classes (*a*) and (*b*) the assessment so fixed was evidently not liable to revision.

"9. In respect of class (*c*) it is evident from the proviso that an attempt to obtain an amicable settlement of the assessment was to be deemed a condition precedent to the exercise of the power given to survey officers to enter upon and fix the assessment.

'But if no such arrangement can be otherwise arrived at by the Collector and the owner or holder, then whether the owner or holder assent or no, the survey officers are empowered to enter upon the lands and fix and make an assessment.'

"10. The only effect of Section 216 of the Bombay Land Revenue Code is Chapters VIII. to X. of that Code do not apply to any such assessment.

"11. I think therefore that in cases in which Summary Settlement Sanads have been issued, the consent of the owner or holder is not necessary to empower Survey Officers to enter and fix and make an assessment, if an attempt to effect has an amicable arrangement has been made and failed. (G. R. No. 7363, dated 6th November 1888.)"

G. 21. **Consent of all the sharers necessary for the introduction of survey settlement.**—The view, that the assent of a co-sharer in an Inam village is not necessary to the introduction of survey rates into that village, is not correct. Under Section 217 the holders of all lands in a village into which a Survey settlement has been introduced, acquire thereby the same rights, and are affected by the same responsibilities as occupants in unalienated villages have or are affected by. Among other results the introduction of the survey settlement would bar the right of the Inamdars to enhance the rayat's rents above the survey assessment.

It does not appear that the sub-sharer's rights in this and other respects could be limited without his assent.

Section 216, Bombay Land Revenue Code, requires as the conditions on which Chapters VIII to X can be extended to alienated villages that there should be an application in writing, made by the holder of the village.

"Holder"—is defined in Section 3 (11) of the Bombay Land Revenue Code, as 'the person in whom a right to hold land is vested whether solely on his own account, or wholly or partially in trust for another person, or for a class of persons, or for the public.'

"Village"—Under Section 3 (20) includes all lands belonging to the village.

It does not appear that one of two or more sharers can be said to be vested with a right to hold all the lands in his village either solely on his own account, or wholly or partially in trust for the other sharers.

Until therefore the assent of all those in whom such right is vested has been obtained no extension of Chapters VIII to X of the Bombay Land Revenue Code can, it appears, be legally authorized under Section 216. (G. R. No. 3346, dated 7th May 1889.)

G. 22. The pension and leave contribution of the survey establishment employed in any surveys of Native States should be charged to the State in addition to the total cost of the Survey operations. (G. R. No. 9086, dated 30th November 1889.)

G. 23. **After the passing of the Code.**—When on the application of the holder of an alienated village made in accordance with the last clause of Section 216, the Governor in Council has sanctioned the extension of the provisions of Chapters VIII to X of the Code to that village, the holder has then no option but must have the provisions of those chapters extended to, and enforced in, that village, whether the effect of any of those provisions be acceptable to him or not.

A case in point recently occurred in which, on the expiration of the original settlement introduced into an alienated village, the holder thereof made an application under Section 216, to have the provisions of Chapters VIII to X of the Code extended

to the village with a view to revision survey rates being introduced into it. The application was granted and after the necessary preliminary operations revised rates were proposed and sanctioned for that village. Before the formal introduction of those rates, however, the holder of the village expressed his unwillingness to accept those rates and as the original settlement lease had expired, commenced to levy assessment at the Mamul rates, *i. e.*, the rates prevailing before the introduction of the original settlement. In this case the following questions were referred for the orders of Government:—

(1) Whether on the expiration of the original settlement the relations between the holder of the village and his rayats did not revert to the *status quo ante* (as held in G. R. No. 3045, dated 14th April 1884); and if so,

(2) Whether it was lawful for the holder of the village to levy assessment at the Mamul rates; and

(3) Whether in that case the local fund cess should be levied.

(*a*) on the assessment at Mamul rates; or

(*b*) on the assessment at rates of the original settlement lately expired; or

(*c*) on the assessment at the revised survey rates fixed by the Survey Department and not accepted by the holder of the village.

These questions were disposed of by the following opinion of the Remembrancer of Legal Affairs, concurred in by Government:—

"In order to ascertain how matters now stand it seems desirable to recapitulate the material facts regarding the Inam village in question.

"2. An original survey settlement was introduced into the village under Bombay Act I. of 1865

in the year 1875-76, on the application of the Inamdar. That settlement expired in 1881-82.

"3. On the 2nd October 1884 the Inamdar applied to Government that the provisions of Chapters VIII. to X. of the Land Revenue Code be extended to the village in order that revision survey operations might be introduced into it. This application was allowed by His Excellency and a notification extending the said provisions to the village was published in the *Bombay Government Gazette*.

"4. On the authority of the above notification revision survey rates were sanctioned by the Survey Commissioner for the village, but the rates have not been formally introduced into the village because the Inamdar refused to accept them.

"5. The Commissioner, Central Division, and the Survey Commissioner were asked by Government to report through this office the circumstances under which it had been thought that the Inamdar was at liberty to accept or reject the revised rates and they replied that paragraph 2 of the agreement into which the Inamdar entered before Chapters VIII. and IX. were extended to his village implied that he was at liberty to accept or reject the rates.

"6. The following is a rough translation of the agreement referred to :—

To Government

Kabulayat executed by the Inamdar of the village of *** Taluka of *** To wit. In 1875-76 the Survey Settlement was extended to the said village and in accordance therewith the revenue is being recovered. Now revision settlement is to be effected in the said Taluka. In accordance therewith I am willing to have revision settlement extended to my village and to keep records according to the forms applicable to Government villages as follows :—

2. The work of measurement and classification, &c., be carried out at the expense of Govern-

ment and after the rates having been settled in conformity with the system in Khalsa villages, if I refuse to accept the amount which may be according to the santioned rates, then I will pay to Government in cash all expenses of measurement, classification and of the records connected therewith and of the boundary marks. If I agree to accept the amount according to the sanctioned rates and make wahiwat as stated in paragraph I the said expenses should not be recovered from me * * *

"7. These being the circumstances connected with the village, I think it is quite clear that since Chapters VIII and IX of the Land Revenue Code have been lawfully extended to that village any revised survey rates which are duly fixed for the lands therein by the survey authorities and sanctioned by Government under Section 102 and introduced in the manner provided in Section 103 of the Code, must be levied by the Inamdar for the period of the guarantee, or, at least, the Inamdar must not levy rates in excess of those so fixed.

"8. The form of the agreement taken from the Inamdar apparently dates from a time anterior to the passing of the Land Revenue Code, and it should, I think, have been reconsidered before being used for villages to which the provisions of Chapters VIII and IX of that Code have been, or are to be applied.

"9. I do not feel able to advise that the extension of the provisions of Chapters VIII. and IX. of the Code to the village annulled that agreement, for there is no authority of law for such advice, and moreover when applying to Government for the extension of the above provisions to his village, the Inamdar in his written application expressly stated that he had 'duly entered into necessary agreements in order that the revision survey and survey operations should be introduced into his village,' from which it seems (as it is no doubt the case)

that the local revenue authorities required the agreement from him.

"10. I think, therefore, that Government must abide by the agreement and bear the cost of the revision survey of the Inamdar's village unless the rates which are finally sanctioned are acceptable to him; but the survey rates must prevail and be enforced whether the rates are acceptable to the Inamdar or not.

"11. With reference to the question of Local fund cess I would observe that my report on which G. R. No. 3045, dated 14th April 1884 was based, applied solely to the case of an Inamdar whose village was surveyed and settled before even Bombay Act I. of 1865 became law, and who on the expiry of the term of the settlement applied neither for a revision settlement nor for the application to his village of any of the provisions of the Land Revenue Code. In the present case the Inamdar entered into an agreement for a revised survey very soon after the term of the old settlement had expired and subsequently obtained the extension of the provisions of Chapters VIII and IX of the Code to his village. In his case, I am of opinion, that Local fund cess should be calculated on the old survey rates until the revised settlement is introduced and thereafter on the new rates." (G. R. No. 3600, dated 26th May 1891).

G. 24. **Standard form of agreement to be passed by Inamdars.**—The form of agreement which it was usual to take from the Inamdars before the introduction of the survey rates into their villages having been declared inconsistent with the provisions of the Code (*vide* G. R. No. 3600, dated 26th May 1891), it was suggested that a standard form of agreement to be taken from the Inamdars should be authoritatively laid down for future use. In accordance with this suggestion the form of agreement printed as Appendix 27 has been

sanctioned by Government. (G. R. No. 4011, dated 9th May 1892.)

G. 25. **Should not be departed from.**—In a case in which the holder of an alienated village objected to pass an agreement in the form prescribed by G. R. No. 4011, dated 9th May 1892, a suggestion was made to make certain modifications in that form. This suggestion has been negatived by Government by whom it has further been directed that the form above referred to having been approved after a full consideration, should not be departed from. (G. R. No. 9381, dated 29th November 1892.)

G. 26. **When settlement is once introduced no consent of new coming shareholders necessary.**—When the provisions of Chapters VIII. and IX. of the Code have once been extended to an Inam village with the assent of all the then existing co-sharers and on their application in writing under Section 216, it is not necessary to again extend those provisions to the village in case the number of co-sharers increases. A subsequent increase in the number of co-sharers in the village will not affect in any way the rights and responsibilities which on the introduction of a survey settlement attach to all the holders therein under Section 217. Among these rights and responsibilities must be included the rights and responsibilities of the holders arising on a fresh revenue survey and revision being directed under Section 106 in Chapter IX. of the Code.

It is only in the case of Survey Settlements introduced into an Inam village prior to the passing of the Code that on the expiry of the term fixed for the same, the mutual relations of the Inamdar and his rayats revert to the *status quo ante*. But when a survey settlement has once been introduced under Section 216 into an alienated village, all the provisions of the Act relating to occupants and registered occupants become applicable to the holders

of all lands therein and the subsequent dissent on their part or on the part of their successors cannot annul the operation of the law. Section 217 has barred the right of Inamdars to enhance their rayat's rents beyond the Survey Assessment. (G. R. No. 693, dated 26th January 1893.)

G. 27. Holders of alienated villages to which a revenue settlement has been applied under Bombay Act I. of 1865 have the rights of occupants equally when the settlement is under the Code. The *status quo ante* is reverted to on the expiry of the term of the settlement introduced when there was no law in force. (G. R. No. 5735, dated 29th July 1895.)

G. 28. The form of agreement is intended for cases in which the cost of Survey and Settlement is borne by Government, but there is no law or rule under which an agreement must be taken in this form in all cases in which, Chapters VIII to X of the Land Revenue Code are extended to alienated villages, nor are Government in any way bound to bear the cost of Survey and Settlement in all cases in which the holder of the alienated village agrees to pay village officers according to scale. An agreement should be taken in accordance with the actual facts containing all stipulations to be made by alience according to the form above referred to but containing no undertaking on the part of Government to bear the cost of Survey and Settlement. (G. R. No. 6630, dated 30th August 1895.)

G. 29. If it is proposed to introduce a survey settlement in an inam village placed under the management of Courts of Wards a written application by him under S. 216 and a notification should be issued as in the case of other alienated villages to which Chapters VIII and IX are applied, at the request of the inamdar.

(G. R. No. 7698 dated 7th August 1909).

G. 30. **Expiry of the period of guarantee.**—In cases in which the survey rates are lower than

Mámul assessment the inamdars try to revert to the Mámul rates on the expiration of a survey guarantee. But the general rule is that survey rates introduced after the passing of Act I of 1865 remain in force forever pending the introduction of a Revision Survey. The inamdar is able to revert to Mámul rates only in cases in which the term of settlement began *before* the passing of Act I of 1865 *i. e.*, before 21st January 1865.

(G. R. No. 1327, dated 7th February 1912).

G. 31. Bombay Act IV of 1913 substituted the words "holders of land" in place of the word "occupants" in section 217. The effect of this substitution is that when a survey settlement is extended to an alienated village the holders of lands therein, if they are tenants, will remain tenants and will not become occupants (which word does not include a tenant).

Thus inamdars have no fear now that by a survey settlement the holders, if tenants, will be raised to the status of occupants having a right to pay to the inamdar nothing more than the survey assessment. (G. R. No. 5527, dated 12th June 1913).

G. 32. **Submission to Govt. of Proposals for the settlement of Inam villages.** In supersession of orders contained in paragraph 2 of Govt. resolution No. 3961, dated 31st May 1902, the Governor in Council is pleased to direct that in future, proposals for the settlement of Inam villages should be submitted to Government for further action under section 102 of the Land Revenue Code.

(G. R. No. 5248, dated 27th April 1917).

J. 1. It was plain that in cases falling under clauses (a) and (c) the Inámdar's interests would not be affected by the application of Chapters VIII and IX. He would still get the assessment in alienated lands in the village in the former case and the same amount of assessment in the latter and the same must have been the intention in cases

contemplated by clause (b). The "holder of the village" in the concluding paragraph of Section 216 must be read as meaning the "holder of the assessment or any part thereof of an alienated village." (I. L. R. XVIII. Bombay. 525,—Gangadhar Hari Karkare *vs.* Morbhat Purohit.)

J. 2. **It is sufficient if one of the co-sharers applies.**—Under Section 216 it is competent to one out of several co-sharers of an alienated village to apply on behalf of, and with the consent of, all the other co-sharers for the introduction of survey into the village; and it is not open to the cultivators of lands in the village to question the action of Government in introducing the survey on such application. The section does not require that the application should be made or signed by all the sharers. (I. L. R. XXIV, Bombay, 539,—Gopikabai *vs.* Lukshman.)

J. 3. An application under Section 216 for the extension of revenue settlement to an alienated village can be made by a holder who is entrusted with the full powers of the management of the same, even though he does not possess the whole of the lands belonging to the village. (Gopikabai *vs.* Laxman B. L. R. Vol. II 235.)

J. 4. Section 217 not applicable to an Inamdar, to whom Government has granted all its rights in the soil in a village where a survey settlement has been introduced:—

An alienee of the soil is not controlled by any of the provisions of the Land Revenue Code and has a right to raise the rents of permanent tenants even where such permanent tenancies had commenced before the alienation. This ruling is cancelled by J. 5 below. (Pandu vs. Ramchandra 20 Bombay Law Reporter 16 I. L. R. 42 Bombay 112.)

J. 5. The ruling in J. 4 above by a single Judge was overruled by the decision of two Judges in the following case:—

'Dinkar, who was an Inamdar of a village, claim-
'ed to have Mirasi rights over certain lands in the
'village alleging that the defendant Dadoo, among
'others, was his annual tenant. The grant to
'Dinkar was not merely of the Government's right
'to receive the land revenue, but of the entire
'property in the soil. At the introduction of survey
'settlement into the village in 1880, Dadoo was
'entered in the Settlement Register as a Khatedar;
'and since 1880 he cultivated the land and paid to
'Dinkar only a sum equivalent to the annual assess-
'ment. He contended that he had the same
'rights in respect of the land as an occupant in an
'unalienated village under sec. 217.

'The definition of 'alienated' in sec. 3 (20) runs
'in these words. "alienated" means "transferred
'in so far as the rights of Government to payment
'of the rent or land revenue are concerned, wholly
'or partially to the ownership of any person."

'In this case, the *transfer* satisfies the *minimum*
'requirement in so far as the rights of Govern-
'ment to payment of the rent or land revenue
'are concerned. The transfer also covers rights in
'the soil *over and above* the minimum requirement.
'The village is still an 'alienated' village within
'the definition, and sec. 217 applies to the case,
'and Dadoo is entitled to the rights of an occupant
'in an unalienated village.'

(20 Bombay Law Reporter, pages 887 to 895.)
(Or I. L. R. 43 Bombay page 77).

Construction of this Act.

218. Nothing in this Act, which applies in terms to unalienated land or to the holders of unalienated land only, shall be deemed to affect alienated land, or the rights of holders of alienated land or of Government in respect of any such land, and no presumption shall be deemed to arise either in favour, or to the prejudice, of any holder of alienated land from

any provision of this Act in terms relating to unalienated land only.

SCHEDULE A.

REPEALED BY BOM. IV OF 1913, S. 81.

SCHEDULE B.

FORM OF BOND TO BE REQUIRED UNDER SECTION 23.

WHEREAS I,
inhabitant of
have been appointed to the office of
and have been called upon to furnish security under the provisions of section 23 of the Bombay Land Revenue Code for the due discharge of the trusts of the said office, or of any other office to which I may be hereafter appointed, and for the due account of all moneys, papers and other property which shall come into my possession or control by reason of any such office, I hereby bind myself to pay to the Secretary of State for India in Council, the amount of any loss or defalcation in my accounts, and to deliver up any papers or other property within such time, and to such person as shall be demanded by the person at the head of the office to which I belong, such demand to be in writing and to be left at my office or place of residence, and in case of my making default therein I bind myself to forfeit to the Secretary of State for India in Council the sum of
Rupees.